

REPLY TO JOSIAH QUINCY, JR.

To the Shareholders of the Vermont Central Railroad Company :

GENTLEMEN:—A letter recently addressed to you by Josiah Quincy, Jr., late Treasurer of the Vermont Central Railroad Company, requires some notice from us. Mr. Quincy commences his letter with a statement of the circumstances under which he was called to the Treasurership of the Company ; of the efforts which were made to induce him to accept the office ; of his previous connection with various important enterprises ; and of what he has done towards the successful completion of the line of railroads connecting Boston with Lake Ontario at Ogdensburg, and the St. Lawrence at Montreal. We would not detract in the least from such just praise as an intelligent public, familiar with the history of these enterprises, may award to him. We ask you, however, not to be misled by false issues. We shall only notice the statements of Mr. Quincy in reference to the Vermont and Canada Railroad, which statements, unintentionally no doubt, on his part, do great injustice to the gentlemen who composed the Board of Directors of that Company during the period of its construction.

Mr. Quincy says, on page 7 :

"The lease of the Vermont and Canada was executed on the 24th of August, 1849, and a subscription for stock was opened, but, notwithstanding the inducements offered, no one would subscribe.

"The charter required that stock to the amount of one hundred thousand dollars should be taken before the work was commenced. Of this I took ninety-four thousand four hundred dollars myself. This I did solely to evince my confidence in the undertaking and to comply with the condition of the charter. I paid in my first instalment in cash, and on that basis this all important road was commenced, and with the aid of the endorsements of the Directors for funds to be paid out on the road, finished, with a rapidity, economy and perfection, that will compare favorably with any road in or out of New England. I became personally responsible for \$1,284,000, for which, as yet, I have received no compensation other than my salary as Treasurer."

The *facts* are these. The charter of the Vermont and Canada Railroad Company has no such condition as Mr. Quincy states, and all the conditions which it contains, as to the commencement of the road, were complied with long before Mr. Quincy's connection with the Company. The act of incorporation was passed October 31st, 1843.—It appointed certain persons, as commissioners, who were to open books for subscription, and provides that "*when one thousand shares are subscribed for*, or as soon thereafter as the commissioners shall elect, said commissioners may give notice for a meeting of the stockholders to choose seven Directors." On the 8th of June 1847, these one thousand shares were subscribed for, and the commissioners, on the same day, called a meeting of the stockholders, to be held on the 20th of July, 1847, for the choice of Directors, and on that day the Directors were chosen, and the Company was duly organized. This was two years before the time of Mr. Quincy's connection with the road. These sub-

scriptions not being sufficient in amount for the building of the road, and no further subscriptions having been obtained, no assessments upon them were at that time called for. After the lease of the road was made to the Vermont Central Railroad Company, in August, 1849, subscriptions to the stock were again solicited, and obtained to the amount of 1228 shares, of which Mr. Quincy subscribed for 944 shares, amounting to \$94,400. He paid his first instalment of \$9440, *not in cash*, as he states, but by a note, which note was paid by him Nov. 15th, 1849. Nothing further was done by him in reference to settling for the balance due on these shares, although he always claimed the right to retain them.

On the 1st of March, 1850, Mr. Quincy addressed the following letter to the President of the Vermont and Canada Railroad Company:

Boston, March 1st, 1850.

Hon. JOHN SMITH, *President*
of the Vermont & Canada R. R. Co.

MY DEAR SIR:—As the amount of stock in the Vermont and Canada Railroad subscribed for, is insufficient to ensure the completion of the road, I am of opinion that the work should be stopped. If it goes on, it must be on the responsibility of the Board of Directors.

I am very respectfully,

JOSIAH QUINCY, JR.

Tr. of V. & C. R. R. Co.

Notwithstanding this announcement, the Directors resolved to go forward, and five of them raised for the use of the Company, on their own credit and responsibility, the sum of \$619,540.

At length Mr. Quincy, on the second of June, 1851, nearly two years after the subscription which he speaks of,

gave, in settlement for the balance due on said 944 shares, and on 1323 additional shares for which he subscribed, his notes for	\$217,260.00
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These notes were reduced by subsequent pay- ments,	16,358.35
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Leaving a balance due on them of	<u>\$200,901 65</u>
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This balance he never paid, and refused to permit the Directors to sell the stock, until finally, on the 7th of Jan., 1852, the Directors, finding it necessary to make some disposition of the matter, allowed him to forfeit to the corporation 1830 shares of the stock, the par value of which, \$183,000, they endorsed on his said notes. The remainder of said shares he had issued to himself and sold; and the balance of said notes, amounting to \$17,901.63, has never been paid. Not only this, but it was found that Mr. Quincy had, without authority, at one time made use of 500 of these shares, as collateral security for the payment of his own private debts. We "speak of these facts as *historical*." Mr. Quincy's statement of the transaction would seem to convey a different impression. The necessity for raising the sum of \$1,284,000, which he says he raised for the Company, was owing, in a great measure, to the fact that he did not pay up his own indebtedness to the Company. This sum is made up of frequent renewals, and probably at no one time exceeded his indebtedness to the Company. Moreover, the Company has paid it all, together with the interest and commissions thereon. Mr. Quincy resigned his office of Treasurer of the Vermont and Canada Company on the 1st of January, 1852, leaving the corporation with an outstanding debt of nearly \$500,000, much of which was over due. After his resignation, through the

negotiations of one of the Directors of that Company, means were provided for paying off this debt, and at the present time there is no outstanding note against the Company, excepting certain private notes of Mr. Quincy's, which he has endorsed as Treasurer of the said Company, and which we shall refer to hereafter. Mr. Quincy's salary as Treasurer, until Sept. 1st, 1851, was \$5000 per annum. No compensation for endorsements was ever asked for, or claimed by him, and had he paid for the stock for which he subscribed, but few endorsements would have been needed, in addition to those made by the Directors, to which we have alluded.

With these remarks we dismiss the preliminaries of Mr. Quincy's letter, merely suggesting, that if a critical examination of the other enterprises, which he speaks of, shows a like result, some deductions should be made from the praise which he claims.

We now proceed to examine the issues which Mr. Quincy appears to raise with the Directors of this corporation. The letter seems to us to lack definiteness in the statement of grievances, but they appear to range themselves under these four heads :

First, That at the time he accepted the office of Treasurer of the Vermont Central Railroad Company, he was "a man of sufficient fortune," "his books showing a balance of about \$400,000 in his favor," and that now "he has lost his property," and "been forced into bankruptcy," leaving it to be inferred that he has lost this sum by reason of his connection with the corporation as their Treasurer.

Second, That he assumed the office of Treasurer upon the express condition and understanding that he was to

contract private debts for his individual benefit, and to pledge the bonds of the Company for their payment; "that he was to have full power to use the name of the corporation, and pledge its property in any way he might deem expedient."

Third, That on the 15th Nov., 1851, the Directors "took the management of the affairs of the corporation out of his hands," "contrary to their written agreements," and that such action of the Directors was, in his judgment, "the cause of the present depreciation of the stock, and his failure."

Fourth, That he is legally and equitably entitled to compensation "for his endorsements for the Company, and for the loss which he has sustained by reason of the aforesaid action of the Directors."

There are other matters which require notice, but they will all be alluded to in the discussion of these points.

1. As to the first point, it will be observed that Mr. Quincy does not state that he was *worth* \$400,000, but that "*his books showed a balance of \$400,000 in his favor.*" This may be true, but supposing him to have been *worth* the sum named, or more, and that he has lost it, he does not state *how* he has lost it, but he leaves the public to draw the inference that he has lost it by reason of his connection with the Vermont Central Railroad Company, as their Treasurer. This is not so. The Company have paid every piece of paper which he has endorsed for them, whether it has been thirty or fifty millions,—all the interest and commissions of every kind,—all his office expenses, and clerk hire,—and, since 1st of May, 1850, have given him a salary of \$5000 a year besides. How

then can he have lost it, by reason of his endorsements, or by reason of his connection with the Company? If he has lost it by reason of private speculations, either in the Vermont Central or other stocks, the Company are not responsible for such loss, and it has not been occasioned by reason of his connection with the Company. His loss on the 10,309 shares of stock, which he has purchased of the Company, is no part of the \$400,000 which he says that he had at first, because for this stock he has not paid anything as yet. But Mr. Quincy's books now show a surplus of \$206,981.08, his schedule, filed in the Insolvent Court, representing his assets at \$1,355,398.54, and his liabilities at \$1,148,417.46; and yet, after a careful examination of his property, we are of opinion that his estate will not pay fifty cents on the dollar to his unsecured creditors. Nor does it affect the question that he was deceived, as he claims to have been, by the misstatements of the Directors as to the value of the assets of the Company, and the amount of money which was required to finish the road, for if the assets were worthless, and the Company required double the amount which it was estimated that they would require, it has been no loss to him. The Company has paid it all. The burden still rests on him to show what has become of this \$400,000.

2. Mr. Quincy's next claim is, that he assumed the office of Treasurer upon the express condition that he was to have the liberty of pledging the bonds of the corporation for the payment of his private and personal debts, and "to have full power to use the name of the corporation and pledge its property in any way he might deem expedient."

This we understand to be the claim of Mr. Quincy, but it is left somewhat obscure in his letter, as if, in his own

mind, there hung about it something of uncertainty. As an evidence that such is the right which he *claims*, we would call to Mr. Quincy's recollection an interview which he had with the Finance Committee, when it was first discovered that he had made this use of the bonds, at which interview this question was asked him by one of the gentlemen: "Do you mean to say, Mr. Quincy, that you have a right to go into the street to-day and purchase 1000 shares of railroad or bank stock for your own use, and give your note for it, with the bonds as collateral?" His reply was; "I do." Is it to be for a moment supposed that such extraordinary powers were ever intended to be given to him?

As further evidence that this is the right which he claims, we refer to the certificate which Mr. Quincy himself, or his legal adviser, drew up for the signature of Mr. Brewer, (*for, be it understood, this certificate was not drawn up in Mr. Brewer's presence, as Mr. Loring's certificate would seem to imply, but was carefully worded and prepared beforehand.*)

It is as follows: see page 13:

When Mr. Quincy accepted the office of Treasurer of the Company, it was on condition, and with the clear understanding, that he had a perfect right, so far as the Board of Directors could [*lawfully*] give it, to use the name, and pledge the securities of the corporation in any manner and for any purpose that he deemed best; and generally to manage its concerns in the same way as if they were his own.

On page 11 he says:

There can, therefore, be no doubt that it was the duty and interest of the Directors, under those circumstances, to secure my services at any rate, and on any terms I proposed; and it was clearly understood that if I identified myself with, and became responsible for, the Vermont Central

Company, I should have full power to use its name, and pledge its property, in any way I deemed expedient.

The votes, my own action under them, the statement of gentlemen who composed the Board, the action of the Stockholders at their annual meeting, and subsequent course of the Directors, are evidence of my authority.

Mr. Quincy states, (page 1,) that on the 24th of July, 1849, he was called upon by Governor Paine, and requested to take the office of Treasurer of the Company, and his language would seem to imply that this was the first time the subject was brought to his notice. It is evident that the time, which Mr. Quincy mentions, could not be far from correct, for it appears from the records of the Company that the new Board of Directors was organized on the 21st of July, 1849. On the 26th day of July, only *two days* after the matter was thus first brought to his attention, Mr. Quincy presented to the Board his written proposition for becoming Treasurer of the Company. It is apparent from these dates that Mr. Quincy could have needed no very urgent solicitations to induce him to accept the office of Treasurer, for he found time, in the course of two days, "to listen to the appeals of the members of the Board of Directors of the Vermont Central Railroad, and eminent men interested in the whole line of Northern roads," "to be reminded of the important enterprises which he had already accomplished," "to consult Abbott Lawrence, and several of our principal Financiers," "to examine the statement of the financial position of the Vermont Central Railroad," "and to lay the matter before his immediate friends." As it also appears that Mr. Quincy was at this time an endorser upon the paper of the Company to the amount of \$100,000, it is possible that a regard for his own interests,

as well as those of the public, might have had some influence upon him, in inducing him to accept the office.

We have no doubt but that it was thought very desirable to induce Mr. Quincy to become Treasurer of the Company, and that great inducements were offered to him to persuade him to accept the office. The public believed him at the time to be a man of great wealth. He knew well that the Directors so believed, and that he was selected by them because they believed him to be "a man of sufficient fortune," "a capitalist," having, to use his own language, "*no private debts which required the protection or guarantee of the Vermont Central Railroad.*"

These statements of his own, in reference to his pecuniary ability, would certainly seem to imply that he *required* no such authority as he claims, that no such authority was given him at the time, and that the gentlemen who appointed him Treasurer could not have *intended* to give him such authority. And yet Mr Quincy asserts that he accepted his office upon this express condition, and understanding, *given at the time*, that he was to have this power, a power which it is perfectly manifest, from the circumstances of the case, as detailed by Mr. Quincy himself, that the Directors never supposed him to need. Mr. Quincy's proposition was as follows :

To the Directors of the Vermont Central Railroad Company :

GENTLEMEN :—I will accept the office of Treasurer of the Vermont Central Railroad Company, and endorse their paper, on the following conditions:—

First—The books shall be closed under the direction of the present Treasurer, to the satisfaction of the Directors, on the first day of September next, when I am to enter into office. The business of the corporation, *so far as it re-*

lates to finances, shall be conducted at my office, for rent of which, and clerk hire, I shall be paid a fair equivalent. I shall receive as collateral to my endorsements, stock at twenty-five dollars per share, or bonds at fifty dollars on the hundred, on the terms specified in my present agreement for endorsing for the corporation.

Second—*That in lieu of salary and commissions for acting as Treasurer and endorsing for the corporation, Josiah Quincy Jr., his heirs and assigns, shall have the right at any time or times, if he or they so elect, to take any or all of the shares that are not taken by the shareholders on the 1st of August next, at fifty dollars a share, with interest at six per cent. on fifty dollars per share; interest to be computed from the first day of September and March inclusive, such right to take the stock to be binding on the corporation until the second day of May next."*

(Signed,) JOSIAH QUINCY, JR.

Boston, July 26th, 1849.

It appears from the records of the Board, that on the same day this proposition was presented to the Board of Directors, and that on the 28th of July it was accepted and Mr. Quincy chosen Treasurer. On the 2d of August the contract between Mr. Quincy and the corporation was drawn up and executed, of which the following is a copy :

This memorandum of agreement between the Vermont Central Railroad Company and Josiah Quincy Jr., WITNESSETH:

That Whereas, said Quincy has been elected Treasurer of said Corporation, it is mutually agreed as follows :

1. That the duties of said Quincy as Treasurer shall commence on the first day of September next, or as soon thereafter as the accounts of the present incumbent shall be properly audited and settled, and that said Quincy's services shall continue until the first day of May next, and for such further time, not exceeding four months, as said Quincy shall think it expedient, *without additional compensation*, to hold said office.

2. Said Quincy's duties as Treasurer shall include the ordinary and legal duties of a Treasurer, and also the endorsing of all negotiable paper which shall be necessary for

conducting advantageously the affairs of the Company. He will also use all reasonable and proper pains to procure the necessary money by the sale and discount of said paper; the loss and discount thereon to be borne by said Company.

3. The financial business of the Company *shall, as far as convenient to the Company*, be transacted at said Quincy's present office in Boston, for the rent of which, and for clerk hire, and for other actual expenses to be incurred by said Quincy, the Company agree to pay him a fair equivalent.

4. The Company agree that said Quincy shall at all times be kept secured for all his claims and liabilities for the time being against and on account of said Company; which security shall consist in their depositing with him (in the nature of a continuing guaranty) the Bonds of the Company, of the same character and general effect as those heretofore issued; said Quincy having the right at all times to require that the amount of said Bonds shall be kept double the amount of his said claims and liabilities; it being further agreed that at any time or times, after the first day of May next, the said Quincy, or his representatives, shall have the right to sell any of said securities by public auction, so fast and so far as may be necessary to reimburse himself, with interest, for any moneys which shall have been paid by him on account of the Company.

5. And whereas said Company have recently offered to their stockholders twenty thousand shares of their stock, on condition of said stockholders paying or settling therefor on or before the first day of August current; and whereas a large number of said shares remain in the hands of the Company, in consequence of their not being taken and paid or settled for, according to the terms of said offer: *now in lieu of salary and commissions to be paid said Quincy for his said services as Treasurer and endorser for the Company*, the said Company agree forthwith to issue and transfer to him, in his individual capacity, a certificate in due and common form, of all said twenty thousand shares of stock which were not taken and paid or settled for, as aforesaid, by the stockholders; and also that they will, from time to time, issue and transfer to said Quincy any and all of said shares, which, after being subscribed for, shall be forfeited, or liable to be forfeited to, or taken back by, the Company; all

which said shares of stock so issued to said Quincy shall be taken to be "full stock," free from assessments, and entitled to the same rate of dividends and interest which shall be paid in September next; and thereafter, on the old stock.

6. And the said Quincy agrees that as to all said shares of stock that shall be thus issued to him, he or his representatives will, on or before the second day of May next, or on reasonable request thereafter, re-transfer the same to said Company; but he reserves to himself and his representatives, the right to retain and hold, to his and their own use, any and all of said shares, for which he or they shall, on or before said second day of May next, pay to said Company the sum of fifty dollars per share, with interest from the first day of March last; it being further understood and agreed, that said Quincy will refund to said Company, with interest, any sums of money which he shall receive as dividends or interest on the shares of stock which he shall thus re-transfer.

Witness our hands, August 2, 1849.

THE VERMONT CENTRAL RAILROAD COMPANY,

(Signed) CHARLES PAINE, *President*.

(Signed) JOSIAH QUINCY, JR.

The foregoing is the only written contract made between the corporation and Mr. Quincy, in reference to these matters, excepting the contract of May 1st, 1851, which was made with the present Board of Directors, and which we shall have occasion to refer to hereafter.

The vote of the Directors of the Vermont Central Board, passed Aug. 31st, to which Mr. Quincy refers, page 12, were as follows:

Voted, that any notes and drafts signed, endorsed or accepted by Josiah Quincy, Jr., as *Treasurer*, shall be binding upon this Company.

Voted, that Josiah Quincy, Jr., as *Treasurer*, be authorized to pledge any of the bonds or scrip of this corporation, as security for its debts or liabilities, and *in like manner* to pledge any of said bonds or scrip as security for any debts or liabilities which he shall incur in his private capacity for the use or benefit of the corporation.

Mr. Quincy recites but one of the above votes, and it will be observed that he has omitted the words "as Treasurer" from it. This was, perhaps, *accidental* on his part, and yet it will be seen that it makes an essential difference in the meaning of the vote.

It will be observed that the words "*as Treasurer*" are cautiously inserted in *both* votes immediately after Mr. Quincy's name, showing that the Directors intended that all the authority exercised by him under these votes should be exercised by him "*as Treasurer*," for the benefit of the Company, and not for his own private or individual benefit. Every act of his, therefore, under these votes, should of course be entered by him on the books of the corporation, and there is no other mode of determining what acts are the acts of a Treasurer, except by a reference to the books of the corporation. Mr. Quincy, *as Treasurer*, was authorized "to pledge any of the bonds, or scrip of the corporation as security for its debts; or liabilities, and *in like manner*, (that is, *as Treasurer*,) to pledge any of said bonds or scrip as security for any debts or liabilities which he might incur *in his private capacity for the use or benefit of the corporation.*" In other words, where Mr. Quincy borrowed money *for the use or benefit of the corporation*, he might give a note signed by him as Treasurer of the corporation, or a note signed by him individually, as the parties lending might prefer, and in either case might pledge the bonds as security for the payment of such note, but in both cases it must be *for the use and benefit of the corporation*, and must appear on the books of the corporation. We submit to any fair minded man that no power was conveyed, by the above recited votes and contracts, to use these bonds for notes which were made for his *private* benefit.

But Mr. Quincy says, page 12 :

This agreement, with the vote which authorized me to pledge the bonds for *the benefit* of the corporation, constituted me in all cases sole judge of what would be beneficial to it, either directly or indirectly.

By the use of the term *indirectly*, here, the implication intended is, that if, *in Mr. Quincy's judgment*, it was for the benefit of the corporation that he should sustain his private credit, by the use of the bonds, or name of the corporation, he was at liberty to do so. This question we cheerfully submit to the stockholders, upon the terms and purport of the above recited votes and agreement. The amount of Mr. Quincy's individual notes, as specific collateral for which he has pledged the bonds of the corporation, is \$237,067.77 and the amount of bonds specifically pledged as collateral therefor, is \$345,900. The amount of his notes given for his private benefit, upon which he has placed his name as Treasurer of the Vermont Central, and Vermont and Canada Companies, and for which no bonds were pledged, is \$53,408.60. He has pledged, as general collateral with other parties, for his own private debts, bonds to a large amount : making the whole amount of his debt, as nearly as can now be ascertained, \$320,000, and the whole amount of bonds pledged for the payment of the same, \$488,200. These notes, we say, are Mr. Quincy's own private and individual notes, and for his individual benefit ; and in proof thereof, we offer the following recital in the instrument signed by Mr. Quincy, by which he attempted to secure the corporation from loss by reason of these bonds being thus pledged. In the preamble of the instrument is the following recital :

That whereas, the said Quincy has been, and is now, Treasurer of the said corporations of the third part, and whereas he has delivered certain bonds belonging to the said Vermont Central Railroad Company, to sundry of his creditors as collateral security for the debts owed to the said creditors by the said Quincy, in his individual and private capacity, and has endorsed his name as treasurer of said corporations upon sundry notes signed by him in his individual capacity, and for his individual benefit, the said Quincy alleging his right so to do; and whereas, the said corporations, although denying the right of said Quincy so to do, and all liability by reason of said endorsements, and all claim, right, or title which said creditors, or any of them may in any way have to said bonds, either as collateral, as aforesaid, or in any other way, may, by possibility, become liable to damage, or loss, by reason of said endorsements, or by reason of the holding by said creditors of the said bonds, or in some other way not now known, by reason of any acts of the said Quincy, for which he is, or may become liable to either of said corporations, &c.

If these debts are not Mr. Quincy's debts, but the corporation's, why secure the corporation from loss by reason of the bonds pledged to secure their payment? As further proof we say, that every one of these notes will be found upon Mr. Quincy's schedule of his liabilities, rendered in to the Commissioner in Insolvency, and there is, on the other hand, no claim presented against the corporation, among his assets, by reason of this amount of money raised by him for the corporation. If this money was for the corporation, why is this?

If, as may be suggested, any part of the money obtained by Mr. Quincy, upon these notes, has been loaned by him to the Company, and thus was raised for their benefit, our reply is, that with regard to any such loans, though the sources from which they were derived were unknown to the Directors, every dollar has been repaid to Mr. Quincy;

and consequently these notes, which are now outstanding, must be conclusively deemed to be his own sole and private debts. In every case of a loan to the Company by Mr. Quincy, the Company has given him corporation notes, all of which have been paid, and are now on file in the office. These notes of Mr. Quincy's will all be found on Mr. Quincy's private note book, with his own private numbers attached to them all.

Mr. Quincy next says that this authority is evidenced by his own action.

On page 14 he says :

This understanding is proved by my own action. It was well known by money lenders that I gave either the Corporation note endorsed by myself, or my own note endorsed by the Corporation, or the Corporation note secured by bonds, or my own note secured by bonds, at their option.

It is undoubtedly true that Mr. Quincy did thus give notes as he states, but the question is not as to the form of the notes, but as to whether the money raised on his own notes was for his own use, or that of the corporation, and whether the transaction was for the use of the corporation, and appears upon their books as a corporate act.

Mr. Quincy next says, that this was the understanding of the Directors at the time, (see page 13.) Two only of the present Board of Directors, viz., Charles Paine and James R. Langdon, were Directors of the corporation at that time. They most *explicitly* deny that there was any such understanding.

To Messrs. Brewer, Haven and Gray, who are the only Boston members of that board now living, we have addressed a letter, of which the following is a copy :

"Will you oblige the Directors of the Vermont Central Railroad Company, by informing them whether the Directors of 1849 ever assumed to give, or ever gave, or intended to give, to Mr. Quincy, any powers or rights, or intended to do any act which should induce the belief that they had given him any powers or rights other than what were given by the contract made with him, dated Aug. 2d, 1849, and the votes of the Directors duly recorded, or any such powers or rights as he claims to have had in his recent letter to the shareholders, and whether you supposed that he was exercising any such rights or powers."

The reply of Mr. Brewer is as follows :

To the Directors of the Vermont Central Railroad :

I have before stated to some of you what I am about to state in answer to your letter to me of the 13th inst., that the Directors of 1849 never assumed to give, or gave, or intended to give, any power, authority, or right to Mr. Quincy, to my knowledge, directly or indirectly, except by the votes duly entered upon the records of the Directors, and by the written contract made with him at or about the time of his acceptance of the office of Treasurer, nor ever intended to do any act which should induce the belief that any other powers or rights had been given him. The said contract and votes are the proper evidence of the powers conferred upon Mr. Quincy, and of his rights, and not only were no other powers, authority or rights given him, or intended to be given him by the Directors, but no others were ever, to my knowledge, exercised or assumed by him during our administration. I never supposed that any one would construe the contract and votes as giving Mr. Quincy any right or power whatever to use or pledge the name, bonds, or other property of the corporation for his own purposes, or to secure his own private debts, nor do I now consider them capable of such construction, nor did I suppose that Mr. Quincy did or would consider himself possessed of any such rights or powers. There never was any understanding, express or implied, to that effect, nor was such a thing ever thought of or entertained by the Directors, or either of them, to my knowledge, in any way whatever. Still less did I suppose that he was ever practically assuming such rights or powers, by using the name or property of the corporation

to pay or secure his private debts, however the fact may prove to be. And I further state, that the certificate on page 13 of Mr. Quincy's letter was not prepared, nor was any part thereof written, except the word "lawfully," while I was in Mr. Loring's office, nor while I was in Mr. Quincy's office, but was produced to me completely prepared, with the exception of that word, when I first entered Mr. Quincy's office, where I had not been before for several days, and to which at that time I went at his request. I never agreed to sign the said certificate, nor in any way assented to its contents, or declared it to be true, or said that "the Directors understood so perfectly that we had given absolute power to Mr. Quincy to do what he pleased, that we did not feel authorized to step behind his counter to look at the corporation's books, or to ask what he was doing," or that I "was afraid I might make myself legally responsible for having conferred such unlimited powers," but on the contrary, I not only felt authorized to look into the books of the corporation, but repeatedly examined them by myself, and by clerks employed by the Directors for that purpose. But such examination never disclosed anything from which it was or could be inferred, that Mr. Quincy had actually assumed such powers and rights as he claims in his letter, by using the name or bonds of the corporation for his own purposes, or to pay or secure his private debts. It is however, true, that in conversation with Mr. Loring, and with Mr. Quincy, I have said, as I have also said to others, that there was no doubt that Mr. Quincy had the power to pledge the bonds of the corporation; and in speaking of this I have said that he had broad and ample power to pledge them; but I always meant to be understood, and supposed I was understood, that this power was of course subject to the limitation that he was to pledge them only for the use or benefit of the Corporation, as expressed in the vote of the Directors; and I accordingly objected to the words in the certificate, "in any manner and for any purpose that he deemed best; and generally to manage its concerns in the same way as if they were his own," as being capable of conveying the meaning that he might use the bonds or name of the corporation for his own purposes. This objection I stated pointedly, both to Mr. Loring and to Mr. Quincy. It is also true that I said I was afraid that I might make myself legal-

ly responsible, or words to that effect ; but I said so because I feared that the certificate was so broadly and comprehensively expressed, that it might, as I have before stated, be understood to convey the meaning that Mr. Quincy was authorized to pledge the assets of the corporation for his own debts, and if I admitted, contrary to the fact, that I assisted to give such authority, which I knew I had not done, I might be legally responsible. I also feared that the words in the certificate, "on condition, and with the clear understanding that he had a perfect right, so far as the Board of Directors could give it," &c., &c., might be misinterpreted to convey the meaning that there was a condition, and an understanding beyond and other than the terms of the written contract and recorded votes. These were some of the reasons why I refused to sign a certificate which was capable of a construction that should make it declare, in more than one respect, what was absolutely untrue.

(Signed)

GARDNER BREWER.

Boston, April 19th, 1852.

The reply of Mr. Haven is as follows :

Boston, April 24th, 1852.

Having been absent from the city for about ten days, I did not receive your letter, dated the 13th inst., till yesterday.

To your question, whether the Directors of the Vermont Central Railroad of 1849 ever assumed to give, or ever gave, or intended to give to Mr. Quincy, any powers, or rights, or intended to do any act which should induce the belief that they had given him any powers or rights, other than what were given by the contract made with him, dated Aug. 2, 1849, and the votes of the Directors duly recorded ; or any such powers or rights as he claims to have had in his recent letter to the stockholders : and whether I supposed that he was exercising any such rights or powers,—I answer in the negative, so far as I am individually concerned, or have any knowledge.

For your better information I beg leave to add, that on receiving notice in the summer of 1849 that the shareholders of the Vermont Central Railroad had elected me a Director, I immediately declined to accept the office, the responsibility of which I could not assume consistently with my existing engagements. I did, however, at the urgent

solicitation of gentlemen connected with the road, consent to go into the direction, it being distinctly understood that I should be permitted to retire from the direction as soon as the office of the Treasurer, then vacant, should be filled.

I accordingly resigned my office within a few weeks after the appointment of Mr. Quincy as Treasurer, and my resignation was noticed in the papers at the time, and here all my connection with the management of the road ended.

(Signed)

FRANKLIN HAVEN.

The reply of Mr. Gray is as follows :

Boston, April 26th, 1852.

I am in receipt of your favor of 13th inst. In reply to your question, I can only say that I know of no other powers granted by the Directors of the Vermont Central Railroad Company than those which appear on record.

(Signed)

THOMAS GRAY.

Mr. Quincy next says, that this power was brought to the knowledge of, and sanctioned by, the stockholders.

He says : (see page 15.)

When the acceptance of this report and the adoption of this resolution were under consideration, I addressed the meeting and told the Stockholders that it was true that I had absolute power over the finances. That in the language of the Resolve, the Directors had given "*to the Treasurer uncontrolled discretion to bind the Company in any pecuniary obligations, without even the knowledge of any of the Directors.*"

That such was the condition on which I agreed to become responsible for the corporation, AND THE ONLY CONDITION ON WHICH I WOULD REMAIN RESPONSIBLE.

The result was, the Committee themselves detached the resolution from the Report, and laid it upon the table.

The Shareholders, being thus fully informed of the nature of the powers invested in me, and my determination not to continue any longer their Treasurer should those powers be withdrawn, *declined to act upon the resolution*, and thus declared their approval of the course of the Directors.

After these proceedings I acted with the entire conviction that the powers granted by the Directors had been sanctioned by the Shareholders, and whether I was not justified in this conclusion I willingly submit to any impartial mind.

We annex a statement which has been for some time before the public, signed by Messrs. Wheeler, Benedict and Baldwin, the committee of investigation :

To the Shareholders of the Vermont Central Railroad :

With the issues, general or particular, between the Hon. Josiah Quincy, Jr., and the present or past boards of Directors, as made in his letter to you, dated March 12th, 1852, we have no official concern. We leave them to be attended to by the Directors, in their own time and in their own way. But on pages 15 and 16 of that letter, he speaks of a report and a resolution offered by us, as a Committee of Investigation, to the meeting of stockholders, held at Burlington, November 26th, 1850. A more explicit statement of the facts relating to that matter is important to you and to ourselves.

In August, 1849, soon after the Directors made their contract with Mr. Quincy to become their Treasurer, they passed the three following votes :

1st, "That the thirteenth bye-law be, and hereby is, annulled."

2d, "That any notes and drafts signed, endorsed, or accepted by Josiah Quincy, Jr., as Treasurer, shall be binding upon this Company."

3d, "That Josiah Quincy, Jr., as Treasurer, be authorized to pledge any of the bonds or scrip of this corporation, as security for its debts or liabilities, and in like manner to pledge any of said bonds or scrip as security for any debts or liabilities which he shall incur, in his private capacity, for the use or benefit of the corporation."

As the bye-laws then were, the thirteenth read thus :

"Every promissory note made in behalf of the Company shall be signed by the Treasurer, after having been approved by two Directors."

At the close of our report we placed *seven* resolutions, which we offered to the attention of the stockholders.—They were these :

"Resolved—1st, That all proper exertions ought to be made by the Directors of the Company as speedily as possible, to settle all cases of land damages remaining unsettled,—to collect promptly all dues to the Compa-

ny from delinquent stockholders, and to close definitely all open questions, as to salaries and claims for services, materials, or labor rendered to the Company.

2nd. That the remuneration for all services rendered to the Company by Directors or others in its employ, ought to be clearly defined before hand, as far as may be, and that the best interests of the Company would be promoted by paying their Directors fairly for their time, and requiring of them a rigid attention to the responsible duties which, from the nature of the case, must be devolved on them.

3rd. That as fast as it can be done without embarrassing the business of the road, the income from disposable assets ought to be applied to the reduction of the floating debt of the Company; and that so far as it cannot be economically and entirely removed in that mode before the next annual meeting, it should be done by substituting for it bonds of the Company payable at some distant day.

4th. That the Directors be authorized and urged, as soon as it can be done advantageously for the Company, to exchange the bonds falling due July 1st, 1852, for an equal amount of bonds falling due at some distant day.

5th. That the annulling of the thirteenth bye-law of the Company by the Directors, and giving to the treasurer uncontrolled discretion to bind the Company in any pecuniary obligations, without even the knowledge of any of the Directors, was a departure from sound principles of management on the part of the Directors, to which there ought to be an immediate return.

6th. That the Directors ought not to increase the capital stock of the Company by the creation of new shares of stock, without previously bringing the matter before a meeting of the Stockholders for their authorization, giving them fair notice of the object for which such increase is wished, and of the amount of the proposed increase.

7th. That it would be advantageous to the interests of the Company to have appointed, annually, a committee of Stockholders, other than Directors, to examine the transactions of the current year, and to report them to the Stockholders at the next annual meeting.

The *fifth* resolution was drawn with direct reference to the acts of the Directors mentioned above. In Mr. Quincy's letter, it is printed "*7th bye-law*," instead of "*13th bye-law*," as we wrote it. It was altered from our writing, perhaps, because in an edition of the bye-laws printed in 1850, the 7th refers to the duties of the Treasurer, and the 13th is wholly unlike the *annulled* 13th, which was in force when Mr. Quincy was appointed Treasurer.

The report, with the resolutions, was read by one of us: and a motion was made to "accept the report." The report being yet in the hands of the Committee, that motion, according to the usages of public assemblies in Vermont, however it may be elsewhere, could go no further, if carried, than to bring the report into the possession of the meeting, leaving the adoption or rejection of any part of it for subsequent action. Mr. Quincy arose and said that if

by accepting the report the resolutions were to be approved, "he should call for a stock vote," extending his remarks to a considerable length. Another gentleman from abroad went on, also at length, to discuss the question whether an acceptance of the report would carry an approval of the resolutions with it. To end this long debate on a point of order, (much being said which had no bearing on the motion,) the Committee said that the resolutions might be considered as taken off from the report, so that the motion to accept the report would not apply to them. They could as well be brought forward afterwards, being treated as if read and informally laid on the table. The report was then accepted and laid upon the table, and the meeting adjourned for dinner.

The election of Directors was the first business of the afternoon, which, with other matters brought forward, occupied considerable time. The report was then taken up, and, without any discussion, referred to the Directors.—Some other business was hurriedly introduced, the committee waiting for the first available moment to call up the Resolutions, if not taken up by the President, when, without any forewarning, a motion to adjourn was made and put, and the meeting declared to be adjourned. The whole was but the work of a moment. In the bustle of a crowded room, the motion was not even heard by the committee, and not a dozen yeas and noes, taken together, were heard. Expressions of deep displeasure, at the abrupt and unlooked for breaking up of the meeting, were made by many. By some, the proceeding was regarded as a trick to prevent the resolutions from being considered. Any inference, then, from the way in which the action of the committee is spoken of by Mr. Quincy, that the 5th resolution was detached from the report by us, because we judged it best not to press it on the attention of the stockholders for their adoption, would be as far as possible from the truth. The sole object of our action was to save time to the meeting for the fuller discussion of the resolutions when brought up in order, as it was expected they would be. Mr. Quincy's remarks only made it the more evident to us, and to others, that the 5th resolution, and indeed all of them, ought to be passed. At the same time we say plainly, that neither then nor at any time did we suppose that the Directors, whose acts we had condemned, intended to give Mr.

Quincy authority to use the credit of the Company in such manner, as, from his letter, we understand it to have been used by him. More than that,—we did not get the impression from his remarks, nor hear of its being received by any one, that he claimed any such authority, although we heard severe remarks enough concerning what he did say. As to what inference ought to be drawn from the fact that the stockholders did not act upon the 5th resolution, under the circumstances, others can judge as well as we can. This is certain: no motion was made under which any remark on any one of the resolutions could be made in order, and there was no fair opportunity to make any such motion. Had one been made (and nothing but the unlooked for adjournment prevented it,) and a fair discussion allowed, we did not doubt then, and we do not doubt now, that all the resolutions would have been passed by nearly a unanimous vote, if the vote had been taken in the usual manner.

This is no place to speak of the merits or of the grounds of the several resolutions. The reasons for them were contained in the body of the report. We claimed no special credit for the report nor for the resolutions. The report was a brief one—perhaps twice as long as Mr. Quincy's letter, and as to the resolutions, we do not see how any person, entrusted with the same duty, could have reached any other conclusions than we did. It is true we have regretted their suppression, because, if published, they might have called into action, in the minds of the stockholders, a *moral force* to aid very much the efforts of all who, in their official relations, have been striving to bring about an improved condition in the Company's affairs.

We regret it now for another reason. Had they been published, this communication would have been unnecessary.

JOHN WHEELER,	}	Committee of Investigation.
G. W. BENEDICT,		
DANIEL BALDWIN.		

April 5, 1852.

This statement, from our personal knowledge, is correct, but we go still farther.

We deny that Mr. Quincy made any such statement as he asserts in his letter. He did not quote, or refer to, the

5th resolution, nor to any particular one, though we admit that he made general allusion to the subject. The statement, which he says he made, he never did make, and the impression made upon the stockholders, is, we think, fairly stated by the Committee.

Mr. Quincy, in the extract from his letter which we have last quoted, asserts, that as the *result* of certain statements and announcements, (*which he never made*), "the Committee themselves detached the resolution from the report, and laid it on the table," and that the shareholders "declined to act on the resolution, and thus declared their approval of the course of the Directors."

We submit to every candid man whether, in view of the foregoing statements of the committee, and the foregoing facts which we have stated, and which can be proved, Mr. Quincy is right in his assertion that he has the sanction of the stockholders, for the use of the bonds which he claims.

Mr. Quincy says, page 16 :

Since that time I have managed the financial affairs of the Corporation without any statement being asked for, or receiving any interference, advice or assistance from the Directors. The original entries were made by agreement at my private office, where the business was transacted and posted from day to day into the books of the Corporation, kept at their own office by a clerk employed and paid by them. And yet they never by word or act gave me reason to imagine that I was mistaken in supposing that I had the sole right of deciding what was for the benefit of a corporation in which I owned more than a tenth part of the stock.

Mr. Quincy surely did not mean to state this matter so broadly. He well knows that the Directors have, time and again, asked him for statements of the financial affairs of the road, and offered him every possible advice and assist-

ance ; that it has been a matter of serious complaint on their part that so little reliable information could be gained from him ; that the original entries, which were made at Mr. Quincy's private office, instead of being " posted from day to day " into the books of the corporation, which were kept at the Company's office in the Merchant's Exchange, often remained unposted for months at Mr. Quincy's office ; that this was the ground of serious complaint on the part of the Directors ; and that they were kept by him in continual ignorance of the true state of affairs at his office, and could know nothing of his management of the affairs of the Company there.

These notes, before referred to, never were entered on the books of the corporation, and it was entirely impossible, as any one will find from an examination of the books, that the Directors should have known what he was doing with these bonds. Indeed, Mr. Quincy says himself, a little after, (page 18,) in seeming contradiction to what he had before stated, that " from the manner in which I had identified myself with the Corporation, our accounts were from necessity so interwoven, that it was impossible to separate them."

Can this be true ? And yet they are Mr. Quincy's own words. What right has any Treasurer so to interweave his own accounts with those of the corporation, as that it is impossible to separate them ?

We wish it, however, to be distinctly understood, that this confusion of accounts, if it existed, was only at Mr. Quincy's private office. The books of the corporation at the office in the Exchange, as soon as the accounts were received from Mr. Quincy's office, were always correctly posted and accurately kept.

3. Mr. Quincy's next assertion is, (see page 9:)

On the 15th of November 1851, the Directors took the management of the affairs of the Corporation out of my hands, contrary to their written agreement, for no reason that I am aware of, except that *I had used and pledged as security for my own private debts*, the bonds of the Vermont Central Railroad, which had been delivered to me in my individual capacity, as collateral for my endorsements for the Company, *they having, by contract, no right at that time, to demand possession of those bonds.*

And again, (see page 20:)

On the 15th of November, by a vote of the Directors, *the management of the finances of the Corporation was taken from me, the business of the Corporation removed from my office*, and entrusted to Messrs. C. O. Whitmore, James C. Dunn, and J. P. Putnam, I not being authorized to make a loan or draw a check without their approbation; and for the first time, I was notified, that in the opinion of the Board of Directors of the Vermont Central Company, I had no right to use the name and bonds of the Company for debts, excepting those incurred directly for the Company.

The cause of the action of the Directors on November 15th was *not*, as Mr. Quincy states, that he had used the bonds of the corporation for his private benefit. This fact was not known by them until the 28th of November, for it happens that they are able to fix the exact time. Mr. Quincy seems strangely to have confused dates in his statements under this head. The reason which he gives *might* have afforded good grounds for the removal, but it so happens that the Directors did not *know* of this fact at the time, and therefore could not have given that as the reason. Not long previously to this arrangement, certain irregularities in the transaction of business at Mr. Quincy's office had come to the knowledge of the Finance Committee, which they felt it their duty to bring to the attention of the Board of Di-

rectors, and the final consequence of which was, the votes of Nov. 15th, and the action of the Directors to which Mr. Quincy refers. Mr. Quincy, not long before this time, without the knowledge of the Committee of Finance, and clearly with no authority given him by any vote, had sold 1240 shares of the stock of the Company, which belonged to the Company. About the same time he allowed one of the brokers to overdraw his account 3462 shares, thereby creating an over-issue of shares to that amount. The capital stock of the corporation, which was legally fixed at 100,000 shares, by this unwarranted and clearly unjustifiable act, was increased to the number of 103,462 shares. The stockholders may well imagine the feelings of the members of the Committee when this information came upon them. After much negotiation with Mr. Quincy, the matter was finally adjusted by allowing him to take from his 10,309 shares, which the Company held as collateral to his note, a number sufficient to make good the broker's account, Mr. Quincy depositing, in lieu of the shares so taken, other collateral.

These circumstances, together with the increased difficulty of obtaining from Mr. Quincy any reliable information about the finances of the Company, had determined the Directors, that in justice to themselves, and in the proper discharge of their duties to the stockholders, they must remove the books of the corporation from Mr. Quincy's own private office, and place them where they would be more under their own control. Accordingly, on the 15th of November, the following votes were passed by the Board :

Whereas, The financial concerns of this Company will hereafter be principally confined to the issue of Mortgage Bonds, and liquidation of the debts of this corporation—therefore

Voted, that the Treasurer be instructed to remove all the books and papers belonging to his office, to the rooms in the Merchants' Exchange now occupied by this Company, and that hereafter all the business of the Treasurer's office be transacted in those rooms, which are hereby declared to be the office of the Treasurer of the Vermont Central Railroad Company.

Voted, that the Treasurer be instructed to deposit all moneys received by him for the Company in some Bank in the city of Boston, to his credit, as Treasurer of the Vermont Central Railroad Company, and that no part of the money, so deposited, shall be drawn from the Bank, unless by a check signed by the Treasurer, and approved by one or more members of the Finance Committee.

Voted, that hereafter no note or obligation of the Company, (with the exception of the President's drafts on the Treasurer, or the Mortgage Bonds,) be issued by the Treasurer, until the same is approved on its face by one or more members of the Finance Committee.

We submit to the stockholders, in perfect confidence, whether, after the above facts had come to our knowledge, the course pursued by us was not a proper one; and whether there was anything in the above recited votes, of which any Treasurer ought to complain. But we go farther. Mr. Quincy was present at the meeting when these votes were passed. They were handed to him *before* they were passed, and he was asked if he had any objection to them. He suggested, if we are not greatly mistaken, some slight amendments, and they were passed, without any objection on his part, or any claim that we were depriving him of any authority. He still continued to be Treasurer, as before, and had it been necessary for him to raise any more money for the Corporation, and his credit had been sufficient, he could have done it as well after, as before, the 15th of November. Not only this, but Mr. Quincy subsequently professed himself pleased with the system which had been introduced

into the office, and, to one of the Directors, spoke in highly complimentary terms of the Chairman of the Finance Committee, who had been chiefly instrumental in effecting this change. Now be it remembered that up to this time the Directors knew nothing of Mr. Quincy's use of the bonds of the Company, for his private benefit, and yet Mr. Quincy says, that ~~this~~ was the only reason which he knew of, for the course of the Directors, and that *then for the first time* he was notified "that in the opinion of the Board he had no right to use the name and bonds of the Company for debts, excepting those incurred directly for the Company."

Mr. Quincy says, on page 20 :

I look upon the notice given me by the Directors, that I had no right to apply the bonds of the Corporation to what they denominate "private debts," and their taking from me the control of the finances, as the cause of the present depreciation of the stock, and my failure. By these acts they deprived me of the powers I had relied on; powers which undeniably had been granted me, and which, if they had not been thus suddenly withheld, would have enabled me to extricate myself and the Corporation, without loss or failure.

And also again on page 20 :

I had large amounts of the bonds in my possession. I was offered money to any amount, on my name, with them as collateral, but after such an announcement, although I knew it to be unfounded, I refused to borrow, out of a sense of justice to the lenders, and was obliged to meet my notes as they fell due, without any aid from the credit of the Corporation.

Mr. Quincy surely forgets himself here. This was the 15th of November. The corporation had stopped payment of its notes, on the 1st of October, *six weeks previously*, and

for the very reason, *that Mr. Quincy was entirely unable to longer raise money for the corporation, either on the corporation's note, or his own private name.* How then can it be true, that on the 15th of November, he was offered money to any amount, on his name, with the bonds as collateral? Could this be so on the 15th of November, when it was not so on the 1st of October? But on the 15th of November it was no longer necessary for him to raise more money for the corporation. A means of paying off their floating debt had been provided, to wit, an issue of Mortgage Bonds. These Bonds have been sold to good advantage, and the proceeds strictly applied to the payment of the floating debt, which has been reduced from \$1,284,705.86, as it stood on the 15th of November, to \$70,375.47, as it stood on the first of July. Could Mr. Quincy have done more or better for the corporation than this?

The cause of "the depreciation of the stock," was not their taking from him the control of the finances, or the right to use these bonds for his own benefit. It was the discovery of the fact that he *had* so used them. This discovery was made by the committee on the 28th day of November, as we have said, and Mr. Quincy was then forbidden to make any such farther use of the bonds. Even then he did not complain that we were doing what we had no right to do. At our request he cheerfully and readily gave up to us the bonds which he had on hand, not pledged, making no claim that "we had no right at that time to demand possession of them." These bonds were burned in his presence, and without any objection on his part.

On the 31st of December, Mr. Quincy signed the trust deed, by which he assigned to the corporation certain prop-

erty to secure them from loss, by reason of his use of these bonds.

As much complaint has been made that the Board of Directors should have held this security, and yet refused to pay these debts, we would say that it was only a *conditional* conveyance, in the nature of a mortgage, and that until the Company had suffered loss, or damage, or had been called upon to pay said bonds, they could not even take possession of the property. Mr. Quincy had the control and management of the property thus conveyed, as much as before—and yet he says, page 21 :

By making the assignment for the benefit of the Corporation, of so much of my property, I am deprived of the means I possessed, and of the time I was equitably entitled to, and am forced into bankruptcy, as the best means of extricating myself from my position.

Mr. Quincy *was not* forced into bankruptcy. There was no *necessity* of his going in. The corporation did not desire it, but he went in, as he had threatened us that he would do, *because* the Directors would not give him up his official bond, as a condition of his resignation of his office of Treasurer, a condition which they could not entertain for a moment.

It seems proper here to say a few words upon the subject of “repudiation,” with which this corporation has been charged. This is a term which others have applied to the course of the Directors in reference to these bonds. The word is not applicable to a corporation, which, like an individual, is amenable to law, and can be compelled to pay if it is liable. But we submit to an impartial public, whether, under the circumstances in which the Directors thus unexpectedly found themselves, not knowing the extent of this

use of their bonds, they were not justified in the course which they considered themselves compelled to take. They desired to save the property of the stockholders from a ruinous sacrifice, and to find time to ascertain their exact position. It became also a question of great nicety as to the right of the Directors to assume payment of these notes, or to admit the liability of the corporation upon these bonds.

At length, after a careful consideration of the complex questions arising in the case, and as soon as the Directors began to feel any confidence that they knew the extent to which their bonds had been thus used, the Board, on the 5th of March last, authorized the Finance Committee to settle with parties holding these bonds and endorsements, by giving such parties the bonds or notes of the corporation, payable at some future day, and receiving from them an assignment of said notes, and a surrender of said bonds.

The arrangement would have been immediately carried into effect, but, on the next day, and while, in pursuance of the authority committed to them, the Finance Committee were in the midst of negotiations with parties holding said notes and bonds, Mr. Quincy went into insolvency, and notified them not to proceed with such settlements. Mr. Quincy endeavors to throw upon the Directors the odium, if any, which may have attached to the proceedings taken in reference to this matter. We distinctly charge that he went into insolvency for the purpose of defeating our negotiations, knowing that it would complicate still further our relations with these bondholders. Those conversant with the insolvent laws of Massachusetts, will know that, by this proceeding on the part of Mr. Quincy,

new difficulties were thrown in the way of an adjustment of this vexed question.

Mr. Quincy lays great stress upon the circumstance that he was a large shareholder in the Company.

He says, page 21 :

I have for the last eighteen months, been, and am now, the largest shareholder in the Corporation, being interested in a tenth part of the whole stock, *having taken ten thousand shares at the request of the Directors, when, in their own language, "they were unable, after great efforts on their part, to induce the Shareholders to take them;"* and have held them at their instance, when it was my decided interest to have sold.

I took this stock, as I took thousands of shares beside, under the conviction that it was essential to the interests of the Corporation that their shares should not be suffered to sink in the market. Whether I miscalculated my strength in these efforts to bolster the stock of this gigantic Corporation can never now be known, as the resources on which I calculated to sustain these efforts were withdrawn at the most critical period.

It is true that Mr. Quincy did take 10,309 shares of the stock which was issued at \$30, but he took them purely as a matter of speculation, and not "under the conviction that it was essential to the interests of the Corporation." And besides, 3000 of the shares thus taken had been *subscribed for* by Mr. Quincy, although he had not taken them. These shares he was legally bound to take, and it was a part consideration of his taking the balance of that issue, that these 3000 shares, thus subscribed for by him, should be joined with the rest, and that he should have credit of twelve months upon the whole. It is not true that he held these shares "at the instance of the Directors, when it was decidedly for his interest to sell." He might have sold them at one time at a large profit, and it was a matter of surprise that

he did not do so. A broker has said that he held the agreement of Mr. Quincy that he should not sell those shares without the broker's consent, and that this agreement was secured by \$200,000 of Vermont Central Railroad Bonds. We suppose that the right to use these Bonds, for this purpose, is claimed by him to be within the authority given him by the votes and agreements before recited.

Mr. Quincy next says, page 23 :

I am advised that I can maintain actions against the Directors, in their individual capacities, or against the Corporation, or against both, for the damages I have sustained in being deprived of the rights secured to me by contract, and for the replevying, destroying, and otherwise interfering with bonds with which, as they were under a pledge to me for my security, the Corporation had no right to meddle till I was fully indemnified ; an interference ruinous to my business and credit, as well as deeply wounding to my feelings.

Our reply to this is, that if the Directors found that Mr. Quincy was mis-appropriating these bonds, which were placed in his hands for a specific purpose, they had a perfect right to take possession of them. But the Directors have not taken one bond from Mr. Quincy without his entire consent and approbation, and most of them have been destroyed in his presence and with his assistance. When the present Board were first chosen, it was found that there were, in Mr. Quincy's possession, bonds to the amount of \$3,440,400.00, which were held by him as collateral security for his endorsements, and pledged by him from time to time as security for loans of money. These bonds have been burned by the Committee of Finance from time to time, with Mr. Quincy's assent, until, at the present time, there are no bonds of this class now outstanding, except those

pledged for the payment of Mr. Quincy's private liabilities, as before stated.

As to the *replevying* of bonds, Mr. Quincy well knows that when the first notice appeared of the proposed sale of a large amount of bonds, which were held as collateral security for one of his own notes, he called upon Mr. Putnam, a member of the Board, and desired him to go and consult with Mr. Ellis Gray Loring as to the best method of defeating the sale; that Mr. Putnam did go to see Mr. Loring; that both of them went in together into Mr. Quincy's office, and that there the whole matter was talked over in Mr. Quincy's presence, the form of action agreed upon, and the whole plan of proceeding arranged, should the sale be insisted on. And yet Mr. Quincy speaks of this "interference as ruinous to his business, and as deeply wounding to his feelings."

4. Mr. Quincy next claims that he is legally and equitably entitled to compensation for his endorsements for the Company, and for the loss which he has sustained by reason of the aforesaid action of the Directors.

Mr. Quincy commences his letter with the assertion that the responsibility, which he assumed, he would not undertake for money.

He says, page 5 :

I accordingly had an interview with the Directors of the Vermont Central Railroad, at which I told them I would accept the office of their Treasurer—but that as to compensation, it was a responsibility I would not undertake for money. That twenty thousand Shares of the Stock had been offered to the Shareholders at fifty dollars a share and but four thousand two hundred and fifty were taken; that in place of compensation, and to give confidence in the stock, I would receive the right to take the balance of said

Stock at that price on the first of May, 1850. If it were worth more, the profit was my pay, if it were not, I should receive my payment in a consciousness of having discharged this great duty.

See, also, his contract of August 2d, 1849.

It is apparent, from this, that this thing was undertaken by Mr. Quincy as a speculation. He expected, and others expected, that he would make a large amount of money out of those shares, but the speculation failed.

But Mr. Quincy says that he was deceived by the representations of the Directors. As we have before stated, this does not meet the point; for if, by reason of such misrepresentations, he has been obliged to raise more money, it has all been paid, as well as the expenses of raising it, by the Company. But Mr. Quincy could not have been deceived by these misrepresentations, at least to the extent which he claims. We find that in his receipt for the books, papers, cash, &c., given by him to Mr. Warner, his predecessor, the notes payable, and outstanding debts, were set down as amounting to \$531,253.31. He states that he supposed them to be \$406,862.33. He states further, that the bonded debt of the Company was represented to be \$297,300, which was, in fact, \$597,000. The difference in the two amounts is owing to the fact that bonds to the amount of \$300,000 loaned to S. F. Belknap, the contractor for building the road, and for which Mr. Belknap was liable to the Company, were not included in the estimate to which Mr. Quincy refers. They never were represented as part of the bonded debt of the Company; until afterwards, when it was found that the Company would be obliged to pay them. Did Mr. Quincy, in his Treasurer's Reports, represent to the public, as part of the

bonded debt of the Company, the bonds which he held as collateral? Mr. Warner states, that he remembers distinctly, of informing the new board, while they were negotiating with Mr. Quincy, not only of the existence of that loan, but of its nature, and that he thinks Mr. Quincy was present. In any event, no complaint was made by Mr. Quincy, until long afterwards. Mr. Quincy subsequently decided not to take the stock, which he was to have the option of taking, for his compensation. He then represented to the Directors, that in equity he ought to have some compensation for his endorsements, prior to the first of May, 1850, as by the depreciation of the stock he had lost the compensation which he had expected to receive. The Directors knew of no claim which he could have, but being desirous to deal fairly by him, they agreed to refer the whole subject, and agreements of reference were drawn accordingly. Before the hearing came on, Mr. Quincy applied to the Directors for an extension of the time for the payment of his notes, given for the purchase of the 10,309 shares of the stock, and agreed that if they would so extend them for one year, and fix his compensation at \$5000 per year, from and after May, A.D., 1850, during the time he was Treasurer, he would release the Company from all claim, if any he had, for compensation, prior to May 1st. 1850. Accordingly, an agreement was made between the Company and Mr. Quincy, of which the following is a copy :—

Articles of agreement made and concluded this first day of May, A. D. 1851, by and between the corporation known as the Vermont Central Railroad Company of the first part. and Josiah Quincy Jr., of Boston, gentleman, of the second part, witnesseth :

That whereas, a difference of opinion has arisen between the said parties, as to the compensation to be paid by said Company to the said Quincy for his services, and responsibility as Treasurer and financial agent of the said Company, from the first day of September, 1849, to the first day of May, 1850:

Now, therefore, for the purpose of settling such matter, it is hereby mutually agreed as follows:

The salary of the said Quincy, as Treasurer and financial agent of the said corporation, is, and the same is hereby declared to be, at the rate of \$5000 per annum, the same to commence and be payable, from and after the first day of May, 1850, and to continue so long as the said Quincy shall perform his duties as such Treasurer; and all needful and proper expenses of office rent and clerk hire, which shall be necessary for the transaction of the financial business of the Company, shall be paid by the said corporation, in addition to such salary. *Said Quincy's duties as Treasurer and financial agent, as aforesaid, shall include the ordinary and legal duties of Treasurer, and also the endorsing of all negotiable, or other paper, which shall be necessary for conducting advantageously the affairs of the Company.* He shall also use all reasonable and proper means to procure the money necessary to carry on the business of the Company, by the sale and discount of such paper, the loss and discount thereon to be borne by the said Company, *and said sum of \$5000 is to be in full payment and satisfaction of all such services as aforesaid.*

The said Company agree that said Quincy shall at all times be kept secured for all his claims, and liabilities, for the time being, against and on account of said Company, which security shall consist in their depositing with him (in the nature of a continuing guaranty) the bonds of the Company, of the same character and general effect as those heretofore issued; said Quincy having the right, at all times, to require that the amount of said bonds shall be kept double the amount of his said claims and liabilities.—It being further agreed, that at any time or times after his resignation of the office of Treasurer, the said Quincy, or his representatives, shall have the right, after giving twenty days notice to the said corporation, of his intention so to do, to sell any of said securities, by public auction, so fast and so far as may be necessary to reimburse himself, with in-

terest, for any moneys which shall have been paid by him on account of the Company.

And whereas the said corporation hold promissory notes of the said Quincy, bearing date the 22d day of August, A. D. 1850, and given for stock purchased by him of the said corporation, for the sum of \$257,725, payable in one year from date without interest, and for the sum of \$51,545, payable on demand, with interest from and after the time when the amount of his compensation as Treasurer shall have been decided, and as collateral security for which the said Quincy has deposited with the said Company 10,309 shares of the stock of the Vermont Central Railroad Company :

The said corporation do hereby agree that they will extend the time of payment of said notes, or loan the amount to said Quincy, if he shall so elect, in such form as may be agreed upon, between him and the Committee of Finance of said corporation, for the term of one year from and after the 22d day of August next, interest to be due and payable upon the amount of said notes or loan, from and after said date, at the rate of six per cent. per annum, the said corporation holding the same security for the payment of said notes, or said loan, which they now hold.

The said Quincy, in consideration of the extension of the said time of payment of his said notes, as aforesaid, agrees to release, and by these presents does hereby release, discharge, and acquit, the said Corporation, of and from all liability, claim, or demand whatever, which he can, or may have against the said corporation for compensation for his services as Treasurer, and financial Agent, and endorser for the said corporation, prior to the said first day of May, 1850, hereby accepting the considerations given to him by the said corporation, as set forth in this instrument, as full satisfaction for all such claim, or demand, if any he may have, but not for his expenses, as provided for in said agreement, and the agreements of reference heretofore made and executed by and between the parties hereto, for the purpose of submitting to Arbitrators, the question of the liability of the said corporation, to pay the said Quincy for said services, are hereby cancelled and revoked.

And whereas, by reason of the extension of the time of the payment of said notes, as aforesaid, the said corporation may be under the necessity of borrowing money to the

same amount as the amount of the said notes, until said notes shall have been paid, as aforesaid, and whereas the said corporation may be compelled to pay for said loans of money, more than six per cent. interest per annum, the said Quincy further agrees, to and with the said corporation, in further consideration of said extension of payment, as aforesaid, that he will pay to said corporation, in addition to the six per cent. per annum, to be paid as aforesaid, as interest on the amount of said notes during the time of such extension of the payment thereof, such a per centage upon the said sum of \$309,270, as shall be equal to the difference between eight per cent. and the average rate of interest paid by the said corporation on loans of money made by them between the 22d day of August, 1851, and the 22d day of August, 1852.

And whereas the said corporation are the owners of certain shares in their own capital stock, it is further mutually agreed by and between the parties hereto, and the same is a part of the mutual consideration of this instrument, that if either party shall dispose of any of their said shares, prior to the said 22d day of August, 1852, either for cash, or on time deliverable prior to that date, they will give to the other party notice, and thereupon, if the other party shall so elect, such sale or sales of shares, so made by either party, shall be for the mutual benefit of both parties, in the proportion of one share to the said corporation, and two shares to the said Quincy, but nothing herein contained shall prevent the said Quincy from selling the said shares, or any of them, at any time, or times he may elect, and from transferring the same on the payment of thirty dollars a share on his said notes, or from substituting new notes with satisfactory collateral, in place of his own, provided the promisors are satisfactory to the Committee of Finance of said corporation.

All agreements heretofore made by and between the parties to this instrument, in relation to the subject matter thereof, inconsistent with the provisions of these articles, are hereby cancelled and revoked.

To the faithful performance of all and several, the covenants herein contained, the parties hereto do mutually bind themselves, their representatives and successors.

In witness whereof, the said parties have hereunto set their hands and seals, the said corporation signing by Charles Paine, its President, thereunto duly authorized, this

first day of May, A. D. one thousand eight hundred and fifty-one. (Signed) JOSIAH QUINCY, JR. [SEAL.]

(Signed) The VT. CENTRAL R. R. Co., BY
CHARLES PAINE, *Pres't.* [SEAL.]

E. P. WALTON JR. witness to signature of Charles Paine, Pres't.

GEO. SEYMOUR witness to signature of Josiah Quincy, Jr.

And now, how can Mr. Quincy claim that he is legally or equitably entitled to compensation? The acts of the Directors, of which Mr. Quincy complains, were done by them in the discharge of what they deemed to be their duty, and they are yet to see that it has been of any injury to the interests of the Company. If, in this performance of their duty, they have directly or indirectly injured Mr. Quincy, they regret it. Indeed, nothing but sympathy for him, and an anxiety not to throw any impediment in the way of negotiations which his friends were making in his behalf, induced them to keep silent so long.—“They were willing to be for a time misunderstood, with the certainty that in the end the public would do them justice.” They felt that the stockholders had a right to know from them the truth of the matter in reference to the issues which Mr. Quincy has raised in his letter. In this reply they have strictly confined themselves to answering those issues, without alluding to other matters for which they felt that they had, on their part, great cause of complaint against Mr. Quincy.

CHARLES PAINE,
J. R. LANGDON,
C. O. WHITMORE,
J. P. PUTNAM,
JOHN SMITH,
J. C. DUNN,
JOHN H. PECK,

DIRECTORS

V. C. R. R. Co.

Boston, April 20, 1852.